IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 133 OF 2001

IN

SUMMARY SUIT NO. 4155 OF 2000

G.N. Thakkar .....Plffs.
vs.
Mangal Stores and ors. .....Defnds.

Mr.J.S. Kini, advocate
for the plaintiffs.
Mr.A.A. Kocharekar i/b. Swati Pawar, advocate
for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 9th September, 2005.

P.C. :.

1. The present motion is taken out for the purpose of attachment before judgment inrespect of the property belonging to one of the defendant firm being Flat no.C-3, S-4 Mahatma Gandhi, Vashi or alternatively for furnishing security of

Rs.10,40,000/-.

2. Learned counsel for the defendant has pressed the motion on two grounds. Firstly it has been contended that the said property is coming to the share of one Lalit Shankar Manek who is not a party to the present proceedings and therefore no order can be passed inrespect of the said property which belongs to the person who is not the defendant. Admittedly the said Lalit Manek is the partner of the first defendant. It is also admitted by the applicant that the firm Mangal Stores has been dissolved and there are no assets of Mangal Stores available as of today. In my view in the aforesaid circumstances to protect the claim of the plaintiff if decreed the interim order in terms of prayer clause (c) is required to be passed protecting the said property till the hearing and final disposal of the suit.

3. The second contention raised by the learned counsel for the defendant that there are no averments to satisfy the requirement of Order 35

R.5. I am of the opinion that in the light of the admitted position that the firm has no assets it is more required that the firm should be protected. In view thereof motion made absolute in terms of prayer clause (c).

sd/-

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